IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 1423 OF 2005

IN

NOTICE OF MOTION NO. 1625 OF 2002

IN

SUIT NO. 1583 OF 2002

Mrs. Sadhana Devi Arkh ... Plaintiff

Vs.

M/s. Cholamandalam Investments &

Finance Co.Ltd. & Ors. Defendants

Mr. Rajpatprasad S.Arkh C.A. of Plaintiff in person.

Mr. Vishwanath Mannadiar i/b. Mannadiar & Co. for Defendants.

CORAM: S.K.SHAH,J.

DATE : 16th June,2006.

P.C.

1. The C.A. of the plaintiff has taken out this otice of Motion against the defedants alleging that they have committed contempt of the order passed by this Court in Notice of Motion No.1625 of 2002 on 6.8.2003 whereby this Court directed the defendant

(respondent herein) to give no objection which would enable the plaintiff to ply the said vehicle. The defendants gave No Objection Certificate within two weeks.

2. The learned Counsel for the Defendants submits that pursuant tothe order, no objection certificate was given to the plaintiff within two weeks. He further submits that however, the plaintiff was not satisfied and therefore took out another Notice of Motion No.1266 of 2004 for getting no objection certificate. In view of this, the papers of the Suit were made available and the Notice of Motion No.1266 of 2004 was perused. A perusal of this Notice of Motion shows that there are diocuments annexed to the affidavit filed on behalf of the plaintiff. The dlefendants gave No Objection Certificate to the plaintiff. It is dated 8.8.2003. It is, therefore, in compliance with the order passed on 6.8.2003.

3. Since the plaintiff was not satisfied with the No Objection Certificate which was given, he had taken out the present Notice of Motion in 2005.

4. In the meantime, however, it appears that this Court by order dated 20.7.2004 in Notice of Motion No. 1266 of 2004 which was taken out by the plaintiff for

the same relief for getting No objection certificate fromthe defendant-company. In this Notice of Motion, the plaintiff made a grievance that it is not the proper No objection certificate which was given from Chennai and the plaintiff alleged that the entire transaction took place in Mumbai. Therefore, this Court on 20.7.2004 passed an order declaring that the plaintiff is the owner of the vehicle and directing the defendant to rectify the No objection certificate dated 8.8.2003. In the same order in para 6, it was observed that the defendants had tendered before the Court a set of documents along with the letter addressed to the plaintiff annexing NOC to R.T.O., Form No.35 in duplicate, NOC to Insurance Company, which is left blank for the reason that the defendant is not aware in respect of the insurance company with whom the vehicle is insured and also the number of cancelled post-dated cheques. The learned Counsel for the defendants further submits that the blank which was left in the NOC tothe Insurance Company was objected to by the plaintiff and therefore it was corrected. This observation clearly shows that all the documents including the NOC are handed over tothe plaintiff. That as obviously in compliance with trhe order.

5. Inspite of this ,the C.A. of the plaintiff states that till today, he has not received the NOC. He

points out that the the certiifate dated 15.7.2004 issued by the R.T.C. which clearly mentiions that the NOC was not issued by the company with whom the vehicle was hypothecated. He further submiots that because No objection certificate was received, the vehicle was comletely damaged. He further submits that therefore action is necessary against the defendant under the Contempt of Court Act. I do not find any substance in this contention.

6. As observed by this Court in the order dated 20.7.2004 passed in Notice of Motion No.1266, it has been mentioned that the no kobjection certificate as required by the plaintif was handed over to him in the Court itself. So far as the claim of damages is concerned, the plaintiff's C.A. is given to understand that he can take up any other proceedings.

7. The order passed on 6.8.2003 was complied with. There is no question of taking any action under the Contempt of Courts Act. It appears that the plaintiff did not make any grievance till 2005. The present Notice of Motion No.1423 of 2005 is taken out having not received proper No objection certificate. In the meantime, he took out Notice of Motion No.1266 of 2004 wherein the plaintiff was given proper No objection certificate. In these circumstances, I do not find

any merfit in the Notice of Motion. The same is dismissed.

(S.K.SHAH,J.)